

111TH CONGRESS
1ST SESSION

S. 592

To implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2009

Ms. CANTWELL (for himself, Mr. MCCAIN, Mr. LEAHY, Mr. DURBIN, Mr. FEINGOLD, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Local Community
5 Radio Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) The passage of the Telecommunications Act
2 of 1996 led to increased ownership consolidation in
3 the radio industry.

4 (2) At a hearing before the Senate Committee
5 on Commerce, Science, and Transportation, on June
6 4, 2003, all 5 members of the Federal Communica-
7 tions Commission testified that there has been, in at
8 least some local radio markets, too much consolida-
9 tion.

10 (3) A commitment to localism—local oper-
11 ations, local research, local management, locally
12 originated programming, local artists, and local news
13 and events—would bolster radio listening.

14 (4) Local communities have sought to launch
15 radio stations to meet their local needs. However,
16 due to the scarce amount of spectrum available and
17 the high cost of buying and running a large station,
18 many local communities are unable to establish a
19 radio station.

20 (5) In 2003, the average cost to acquire a com-
21 mercial radio station was more than \$2,500,000.

22 (6) In January 2000, the Federal Communica-
23 tions Commission authorized a new, affordable com-
24 munity radio service called “low-power FM” or

1 “LPFM” to “enhance locally focused community-ori-
2 ented radio broadcasting”.

3 (7) Through the creation of LPFM, the Com-
4 mission sought to “create opportunities for new
5 voices on the air waves and to allow local groups, in-
6 cluding schools, churches, and other community-
7 based organizations, to provide programming respon-
8 sive to local community needs and interests”.

9 (8) The Commission made clear that the cre-
10 ation of LPFM would not compromise the integrity
11 of the FM radio band by stating, “We are com-
12 mitted to creating a low-power FM radio service only
13 if it does not cause unacceptable interference to ex-
14 isting radio service.”.

15 (9) Currently, FM translator stations can oper-
16 ate on the second- and third-adjacent channels to
17 full power radio stations, up to an effective radiated
18 power of 250 watts, pursuant to part 74 of title 47,
19 Code of Federal Regulations, using the very same
20 transmitters that LPFM stations will use. The Com-
21 mission based its LPFM rules on the actual per-
22 formance of these translators that already operate
23 without undue interference to FM stations. The ac-
24 tual interference record of these translators is far

1 more useful than any results that further testing
2 could yield.

3 (10) Small rural broadcasters were particularly
4 concerned about a lengthy and costly interference
5 complaint process. Therefore, in September, 2000,
6 the Commission created a simple process to address
7 interference complaints regarding LPFM stations on
8 an expedited basis.

9 (11) In December 2000, Congress delayed the
10 full implementation of LPFM until an independent
11 engineering study was completed and reviewed. This
12 delay was due to some broadcasters' concerns that
13 LPFM service would cause interference in the FM
14 band.

15 (12) The delay prevented millions of Americans
16 from having a locally operated, community based
17 radio station in their neighborhood.

18 (13) Over 500 LPFM stations were allowed to
19 proceed despite the congressional action. These sta-
20 tions are currently on the air and are run by local
21 government agencies, groups promoting arts and
22 education to immigrant and indigenous peoples, art-
23 ists, schools, religious organizations, environmental
24 groups, organizations promoting literacy, and many
25 other civically oriented organizations.

1 (14) After 2 years and the expenditure of
2 \$2,193,343 in taxpayer dollars to conduct this
3 study, the broadcasters' concerns were demonstrated
4 to be unsubstantiated.

5 (15) Minorities represent almost a third of our
6 population. However, according to the Federal Com-
7 munication Commission's most recent Form 323
8 data on the race and gender of full power, commer-
9 cial broadcast licensees, minorities own only 7 per-
10 cent of all local television and radio stations. Women
11 represent more than half of the population, but own
12 only 6 percent of all local television and radio sta-
13 tions. LPFM stations, while not a solution to the
14 overall inequalities in minority and female broadcast
15 ownership, provide an additional opportunity for
16 underrepresented communities to operate a station
17 and provide local communities with a greater diver-
18 sity of viewpoints and culture.

19 (16) LPFM stations have proven to be a vital
20 source of information during local or national emer-
21 gencies. Out of the few stations that were able to
22 stay online during Katrina, several were LPFM sta-
23 tions. In Bay St. Louis, Mississippi, LPFM station
24 WQRZ remained on the air during Hurricane
25 Katrina and served as the Emergency Operations

1 Center for Hancock County. Additionally, after Hur-
 2 ricane Katrina when thousands of evacuees tempo-
 3 rarily housed at the Houston Astrodome were unable
 4 to hear information about the availability of food
 5 and ice, the location of FEMA representatives, and
 6 the whereabouts of missing loved ones over the loud
 7 speakers, volunteers handed out thousands of tran-
 8 sistor radios and established a LPFM station out-
 9 side the Astrodome to broadcast such information.

10 **SEC. 3. REPEAL OF PRIOR LAW.**

11 Section 632 of the Departments of Commerce, Jus-
 12 tice, and State, the Judiciary, and Related Agencies Ap-
 13 propriations Act, 2001 (Public Law 106–553; 114 Stat.
 14 2762A–111), is repealed.

15 **SEC. 4. MINIMUM DISTANCE SEPARATION REQUIREMENTS.**

16 The Federal Communications Commission shall mod-
 17 ify its rules to eliminate third-adjacent minimum distance
 18 separation requirements between—

- 19 (1) low-power FM stations; and
- 20 (2) full-service FM stations, FM translator sta-
 21 tions, and FM booster stations.

22 **SEC. 5. PROTECTION OF RADIO READING SERVICES.**

23 The Federal Communications Commission shall re-
 24 tain its rules that provide third-adjacent channel protec-
 25 tion for full-power non-commercial FM stations that

1 broadcast radio reading services via a subcarrier frequency
2 from potential low-power FM station interference.

3 **SEC. 6. ENSURING AVAILABILITY OF SPECTRUM FOR LPFM**
4 **STATIONS.**

5 The Federal Communications Commission when li-
6 censing FM translator stations shall ensure—

7 (1) that licenses are available to both FM
8 translator stations and low-power FM stations; and

9 (2) that such decisions are made based on the
10 needs of the local community.

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